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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,649	01/16/2001	Kern E. Bryan	KBRY.01P	6263
23732	7590	03/11/2004	EXAMINER	
KENEHAN & LAMBERTSEN, LTD 1771 E. FLAMINGO ROAD SUITE 211-B LAS VEGAS, NV 89119-5154			BALSIS, SHAY L	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/764,649

Applicant(s)

BRYAN, KERN E.

Examiner

Shay L Balsis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2001 and 28 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 12/29/03. These drawings are approved.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6, 7 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hsu (USPN 6016586).

Hsu teaches an applicator for a surface treatment device comprising a rotatable mounting bracket (48) having a plurality of fixed angular positions and a locking mechanism for selecting one of the angular positions (figure 5). There is a handle (3), with a handle extension (4), attached to the rotatable mounting bracket as well as a surface treatment tool (1). The surface treatment tool is attached to the rotatable mounting bracket by a threaded extension (21) formed on the mounting bracket. The rotatable mounting bracket comprises an outer casing (31) wherein an angular locking plate (22) is received within the casing. There is a plurality of apertures (222) formed at the angularly displaced locations. A positioning pin (331) is received within the casing and is biased against the locking plate to define the angular positions of the rotatable mounting bracket. A connector bolt (33) is pivotally received in the outer casement and projects outward, allowing for attachment of the annular locking plate. The connecting bolt also

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acts as the actuator that is interconnected with the positioning pin, which disengages the pin and allows the plate to be repositioned to another pre-set position relative to the outer casement.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,3, 5-7, 9-11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ampian (USPN 5207755).

Ampian teaches an applicator for a surface treatment device, such as a paint roller, comprising a rotatable mounting bracket having a plurality of fixed angular positions and a locking mechanism for selecting one of the angular positions (figure 4). There is a handle (12), with a handle extension (13), attached to the rotatable mounting bracket as well as a surface treatment tool (22). The rotatable mounting bracket comprises an outer casing (82) wherein an angular locking plate (80) is received within the casing. There is a plurality of apertures (86) formed at the angularly displaced locations. A positioning pin (102) is received within the casing and is biased against the locking plate to define the angular positions of the rotatable mounting bracket. There is a pivotal actuator (84) interconnected to the positioning pin wherein the actuator is located outside of the casing to allow access to an operator. A connector bolt (92) is pivotally received in the outer casement and projects outward, allowing for attachment of the annular locking plate.

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Ampian teaches all the essential elements of the claimed invention however fails to teach the connector bolt is fixedly attached to the angular locking plate. Ampian teaches a pivot pin (92) however, it is unclear whether or not the pivot pin is fixed to the angular locking plate, if it is fixed to the mounting bracket, or if it is fixed to both or neither. Ampian makes it clear however, that any conventional manner of pivotally connecting the angular locking plate to the mounting bracket would suffice. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to either fixedly attach one or both ends or even none to accommodate the appropriate usage.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ampian (USPN 5207755) in view of Hsu (USPN 6016586).

Ampian teaches all the essential elements of the claimed invention however the reference fails to teach a that the surface treatment tool is attached to the mounting bracket by means of a threaded extension. Hsu teaches using a threaded extension as a means for attaching a surface treating tool. Ampian and Hsu are analogous art because they are from the same field of endeavor of tools with adjustable means. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to attach Ampian's surface treatment tool to the rotatable bracket by means of a threaded member. The motivation for doing so would have been to allow the handle to be used with many other surface treating tools. In addition, it would allow for ease of cleaning each individual surface treating tool, without having to clean the entire apparatus.

*Applicant's Arguments*

7. a. All the prior art fails to teach a connector bolt and an angular locking plate that is fixedly attached to the projecting portion of the connecting bolt.
- b. Ampian teaches a narrow slot formed between the arcuate bearing surface 94 and the matching circular outer surface, which invites rotational immobility. The arcuate bearing surface is unneeded.

*Response to Arguments*

8. a. Applicant's arguments, see page 6-9, filed 12/29/04, with respect to Calvert, Yamada, Seufert and Cervený have been fully considered and are persuasive. The rejection of claims 1-3, 5-11 for the Calvert reference, claims 1-3, 7-11 for the Yamada reference, 1-2, 5, 7-11 for the Seufert reference and claims 1 and 7 for the Cervený reference have been withdrawn.

Applicant's arguments filed 12/29/04, with regards to the Ampian and Hsu references have been fully considered but they are not persuasive. Ampian and Hsu still teach all the essential elements of the claimed invention as well as the new limitations that were added to the independent claims regarding a connector bolt.

- b. While Ampian teaches an arcuate bearing surface which is not claimed, the reference additionally teaches all the limitations the claimed invention. Applicant states that it would not have been obvious to remove the arcuate bearing surface, however, it was never suggested either by the reference or by the examiner that the arcuate bearing surface be removed. The arcuate bearing surface can remain on the prior art and still meet the limitations of the claimed invention. While the arcuate bearing surface may be an unnecessary element in the Applicant's eyes, it does not need to be removed in order to reject the claims.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

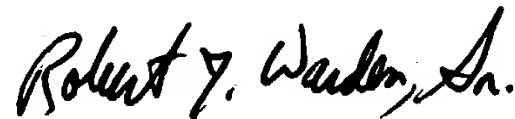
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb  
2/25/04



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